IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

Crl.MC.No. 1825 of 2006()

---

CC.148/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II, CHENGANNUR

.....

PETITIONER: 4TH ACCUSED:

---

TINU V.R., S/O. K.P. RAGHUNATHAN,
VILAYIL THEKKETHIL, PUTHENKOTTAKKAKOM,
CHENNITHALA P.O.

BY ADV. SRI.R.REJI
SMT.SHIVA RAJA RESHMI

RESPONDENTS: STATE:

---

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, STATE REPRESENTED
BY THE SUB INSPECTOR OF POLICE, MANNAR.

ADDL.2. VALSAMMA, W/O.VAVACHAN,
KOOTTIL VEETTIL, ARATTUPUZHA VILLAGE,
ARTTUPUZHA KIZHAKKE MURIYIL,
ARATTUPUZHA PANCHAYAT,
ALAPPUZHA DISTRICT.
(ADDL.R2 IS IMPLEADED AS PER ORDER DATED 10/7/2006 IN
CRL.M.A.NO.3613/2006 IN CRL.M.C.1825/2006)

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 12/03/2007 ALONG WITH CRL.M.C.NO.1828 OF 2006,
THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

**R.BASANT, J**

**----------**

Crl.M.C.Nos.1825 & 1828 of 2006

---

Dated this the 12th day of March 2007

**O R D E R**

The petitioners in these Criminal Miscellaneous Cases face indictment in a prosecution interalia for offences punishable under Sections 447 and 506(II) read with 149 I.P.C. The crux of the allegations is that they trespassed into the properties of the defacto complainant and indulged in wanton acts of mischief causing damage/destruction to the trees standing in the property. The alleged incident took place on 14/4/2006. A complaint was filed and the F.I.R was registered only on 04/05/2006. The complainant, in the F.I.statement, explained why there was such delay in filing the complaint. The police registered an F.I.R, conducted the investigation and filed the final report making allegations against all the petitioners - nine accused in all. Cognizance was taken by the learned Magistrate. The petitioners have appeared before the learned Magistrate. They have come to this court with the prayer that the prosecution initiated against them may be quashed by invoking the powers under Section 482 Cr.P.C.

2. What are the reasons? Various contentions are raised by the learned counsel for the petitioners. First of all, it is contended that as per the minutes of the Gramma Panchayat Committee at its meeting held on 09/03/2006, the present controversy was referred to a Sub Committee consisting of members. It is in pursuance of the decision of the Said Committee that the pathway in question was cleared and some of the trees were cut and removed.

3. Annexure A5 is the copy of the minutes. The said copy cannot be held to show that sub committee or any member or anyone acting at the behest of the Sub Committee had been authorised to indulge in the alleged offences committed under Sections 447 and 506(II) I.P.C. The alleged decision of the Panchayat Committee, a copy of which is produced as Annexure A5 cannot, in these circumstances persuade this court to invoke the powers under Section 482 Cr.P.C. The delay from 14/4/2006 to 4/5/2006 to file F.I statement is explained by the petitioners in the F.I.statement and before the police. Such delay in filing the complaint - whether the reasons can ultimately be accepted or not - cannot certainly justify quashing of the proceedings by invoking the powers under Section 482 Cr.P.C.

4. The petitioners raise the further contention that Annexure A6 shows the width of the pathway as 3 metres and the petitioners had only attempted to clear the pathway of tree growth which reduced the width of the pathway. Similarly, it is further contended that a person had purchased the cut down trees by payment of the value thereto, to the brother of the defacto complainant. Statement filed by him is produced as Annexure A7. Annexure A7 is relied on to contend that there is consent on the part of the complainant for cutting and removing of the trees and for maintenance/work in respect of the pathway.

5. It is further contended that the complainant has been prevaricating on the quantum of loss suffered by her. Initially, she alleged that she has suffered a loss of Rs.1,00,000/-. Subsequently, the version has been modified to say that the actual loss is only Rs.1,000/-. I have considered all the contentions and am not at all persuaded to agree that this can be reckoned as sufficient or satisfactory reasons to invoke the powers under Section 482 Cr.P.C. It is for the petitioners to raise such contentions before the learned Magistrate in the trial which has to follow. At any rate, I find absolutely no

circumstances justifying or warranting invocation of the powers under Section 482 Cr.P.C.

6. In the result, these Criminal Miscellaneous Cases are dismissed. But I may hasten to observe that I have not intended to express any opinion on the merits of the case. I have examined the records only for the purpose of ascertaining and intend only to express the opinion that there are no circumstances justifying the invocation of the powers under Section 482 Cr.P.C.

**(R.BASANT, JUDGE)**

jsr

**R.BASANT, J**

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006